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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,324	05/25/2000	Thomas Nello Giaccherini	HDM2000-1	7267
7590 Anglin & Giaccherini Post Office Box 1146 Carmel Valley, CA 93924			EXAMINER LY, ANH VU H	
		ART UNIT 2616	PAPER NUMBER	
		MAIL DATE 06/26/2007	DELIVERY MODE PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/579,324	GIACCHERINI ET AL.	
	<b>Examiner</b> Anh-Vu H. Ly	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 February 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) 11-24 and 26 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892).	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 11-24 and 26 are objected to because of the following informalities:

With respect to claim 11, in line 13, a semicolon should be inserted right after “accumulated” and in lines 15-16, “said recipient’s convenience” lacks antecedent basis.

Claims 12-24 and 26 are automatically objected to as they depend upon objected independent claim 11. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 and 14-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aristides et al (US Patent No. 5,657,072) in view of Artigalas et al (US 2001/0014206 A1).

Hereinafter, referred to as Aristides and Artigalas.

With respect to claim 1, Aristides discloses a method for use of pre-selected content by a recipient, comprising the steps of:

utilizing the excess capacity of a network by conveying data over said network during a period of less than maximum usage (Fig. 4, steps 100 and 102 and col. 7, lines 59-61);

receiving said data during said period of less than maximum usage (Fig. 4, steps 102 and 104 and col. 8, lines 12-13);

accumulating said data over an extended period of time (Fig. 4, step 104 and col. 8, lines 12-13).

Aristides does not disclose that said data including a plurality of different on-demand programming which may be viewed at said recipient's convenience and selectively retrieving one or more of said plurality of different on-demand programming by said recipient for on-demand use at a time after said extended period of time. Artigalas discloses that the movies are stored at the consumer's home and the user can then view any movie after paying a decoding fee (page 3, 53<sup>rd</sup> paragraph. Herein, the user can view the movies at his/her convenience after paying a fee). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include storing on-demand video for view at an user's convenience in Aristides's system, as suggested by Artigalas, thereby members of the family can then view or listen to the recorded programs independently in different rooms.

With respect to claim 2, Aristides discloses that wherein the network includes a satellite (col. 4, line 1).

With respect to claims 3-8 and 14-15, Aristides discloses a satellite feed (Fig. 1). Aristides does not disclose that wherein satellite operates in LEO, MEO, HEO, and GEO and the network including a sub-orbital platform. However, LEO, MEO, HEO, and GEO satellites are well known in the art for carrying data communications including a sub-orbital platform.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include LEO, MEO, HEO, and GEO satellites including a sub-orbital platform for carrying data in Aristides's network thereby delivering communications to areas where terrestrial alternatives are unavailable, unreliable or simply too expensive.

With respect to claims 9 and 16, Aristides discloses that wherein the network includes a terrestrial wired network (col. 3, line 66 – col. 4, line 9).

With respect to claims 10 and 17, Aristides discloses that wherein the network includes a terrestrial wireless network (col. 3, line 66 - col. 4, line 14).

With respect to claim 11, Aristides discloses an apparatus (Fig. 1) comprising:

- a gateway means (Fig. 1, elements 60 and 62) for transmitting a plurality of digitized packets of data;
- a relay means (Fig. 1, elements 68 and 70) for receiving said plurality of digitized packets of data from said gateway means and for retransmitting during a time period when the total communications capacity of said relay means is not fully used (Fig. 4, step 102);
- a receiver means (Fig. 5) for collecting said plurality of digitized packets of data which are transmitted from said gateway means;
- said receiver means including a storage means (Fig. 5, element 206) for accumulating said plurality of digitized packets of data incrementally over an extended period of time; and

means for selectively retrieving and using one or more of said plurality of digitized packets of data after a generally full program has been accumulated (col. 8, lines 36-62);

Aristides does not disclose that said plurality of digitized packets of data provides a plurality of different on-demand programming which may be viewed at said recipient's convenience. Artigalas discloses that the movies are stored at the consumer's home and the user can then view any movie after paying a decoding fee (page 3, 53<sup>rd</sup> paragraph. Herein, the user can view the movies at his/her convenience after paying a fee). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include storing on-demand video for view at an user's convenience in Aristides's system, as suggested by Artigalas, thereby members of the family can then view or listen to the recorded programs independently in different rooms.

With respect to claims 18-19, Aristides discloses that in which the receiver means is located on and/or above the Earth's surface (Fig. 1).

With respect to claims 20-24, Aristides discloses that in which the receiver means is located in a fixed terminal, a portable terminal, a mobile terminal, a sub-orbital platform, satellite in orbit (Fig. 5 discloses a block diagram of a user interface unit. Herein, the unit can be hooked up to any system or to any device).

With respect to claims 25 and 26, Aristides discloses that prior to conveying said data over said network, transmitting said data from a terrestrial station to said satellite over said

network during a period of less than maximum usage of said network (Fig. 1 discloses that the media server provides the data programs to the transceiver 66 for transmitting to the satellite system, col. 4, line 1, when the usage of the network is not maximized, otherwise, the satellite would not be able to receive full data programs when the network is maximized or overloaded).

3. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aristides and Artigalas further in view of Picco et al (US Patent No. 6,029,045). Hereinafter, referred to as Aristides, Artigalas, and Picco.

With respect to claims 12 and 13, Aristides discloses an interactive entertainment network (Fig. 1). Aristides does not disclose that in which the receiver means is shielded to eliminate local radio frequency transmissions that could be used to make an unauthorized copy and/or tamper-proofed to thwart unauthorized copying. Picco discloses receiver means is shielded to eliminate local radio frequency transmissions and tamper-proofed to thwart unauthorized copying (Fig. 3, discloses that the set-top box is already shielded and tamper-proofed by the manufacturer). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the features of shielding and tamper-proofed of the receiver means in Aristides's network, as suggested by Picco, to eliminate interference and protect information.

***Response to Arguments***

4. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suzuki (US Patent No. 6,169,570 B1) discloses two-way information transmission system.

Dewkett et al (US Patent No. 5,646,676) discloses scalable interactive multimedia server system for providing on demand data.

Cameron et al (US 2005/0028206 A1) discloses digital interactive delivery system for TV/Multimedia/internet.

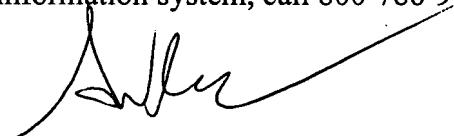
Dunn et al (US Patent No. 6,571,390 B1) discloses interactive entertainment network system for customizing operation thereof according to viewer preferences.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh-Vu H. Ly whose telephone number is 571-272-3175. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature consisting of a stylized, cursive 'A' followed by a more fluid, flowing script.

avl